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12 UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON

13 EUGENE DIVISION

14 PAUL NEUMAN,

15 Plaintiff,

16 v.

17 JAMARO, INC., doing business as RICK  
18 ROBINSON TRUCKING,

19 Defendant.

20 } Civil No. 12-CV-6025-AA  
21 } COMPLAINT  
22 } Jury trial demanded  
23 }

24 ORIGINAL

25 JURISDICTION AND VENUE

26 1. This is a civil action for:

- 27 A. Wages, liquidated damages, attorney fees and court costs under  
28 the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 206, 207  
and 216;
- B. Wages, penalty damages, attorney fees and court costs under  
and under Oregon law, ORS 652.140, 652.150, 652.200,  
653.025, 653.261 and OAR 839-020-0030.
- C. Economic and noneconomic damages, reinstatement, attorney

ORX600007404

1 fees and court costs for wrongful discharge for opposing wage  
2 and hour violations, for opposing use of unsafe vehicles, for  
3 opposing pursuant to ORS 659A.203 and 659A.885.

4 2. Jurisdiction for federal claims is provided by 28 U.S.C. §§ 1331,  
5 1332(e)(1), 1337, 1343(3) and (4) and, 2201 and 2202.

6 3. Jurisdiction over the supplemental state claims is provided by 28 U.S.C.  
7 § 1367.

8 4. Defendant Jamaro, Inc. is an Oregon corporation doing business as  
9 Rick Robinson Trucking, with offices in Benton County, Oregon.

10 5. Defendant at times material to this complaint employed plaintiff Paul  
11 Neuman ("Plaintiff").

12 6. Defendant provides heavy equipment services, including excavating,  
13 road building and septic system installation, using gasoline, equipment, equipment  
14 parts and supplies that transited in interstate commerce.

15 7. On information and belief, Defendant's annual revenues for labor and  
16 materials exceed \$500,000.

17 8. Plaintiff's duties included operating vehicles on Highway 101, and  
18 repairing vehicles and using gasoline, equipment, equipment parts and supplies, all  
19 of which transited in interstate commerce.

20 9. Venue is appropriate in the United States District Court for the District  
21 of Oregon under 28 U.S.C. § 1391(b).

22 FIRST CLAIM

23 (FLSA Wage Claims)

24 10. Plaintiff realleges paragraphs 1-8.

25 11. Plaintiff's regular hourly wage was \$15.

26 12. Defendant's established payday was 15<sup>th</sup> of each month.

27 13. During Plaintiff's employment Defendant did not pay plaintiff for time  
28 spent attending mandatory safety meetings or for travel time from the shop to and

1 from the worksite, didn't pay overtime at time and half, did not pay plaintiff for all  
2 hours worked at the scheduled payday, in violation of 29 U.S.C. §§ 206, 207 and  
3 216.

4       14. As a result of these violations, plaintiff lost wages and is entitled to to  
5 economic damages of \$10,000 plus \$10,000 liquidated damages plus reasonable  
6 attorney fees and costs to be determined by the court under 29 U.S.C. §§ 206, 207  
7 and 216 and 28 U.S.C. §§1920 and 1923.

## **SECOND CLAIM**

## (Oregon Wage Claims)

10 || 15. Plaintiff realleges paragraphs 1-12.

11           16. Defendant didn't pay plaintiff for time spent attending mandatory safety  
12 meetings or for drive time from the shop to worksites, in violation of ORS 652.140,  
13 652.200, 653.025 and 253.261 and Ore. Adm. Rul. 839-020-0030.

14           17. Defendant often failed to pay wages owed on payday when due, in  
15 violation ORS 652.140, 652.200, 653.025 and 253.261 and Ore. Adm. Rul. 839-020-  
16 0030.

17        18. As a result of the violations, plaintiff is entitled to economic damages of  
18 \$10,000 lost wages, \$3,600 penalty wages plus 9 percent pre- and post-judgment  
19 interest plus reasonable attorney fees and costs under ORS 652.140, 652.150,  
20 652.200, 653.025 and 253.261 and Ore. Adm. Rul. 839-020-0030 and 28 U.S.C.  
21 §§1920 and 1923.

## THIRD CLAIM

(Oregon Whistleblower Claim)

24 || 19. Plaintiff repleads paragraphs 1-12, 16-17.

25        20. Plaintiff objected to, but drove, unsafe trucks and heavy equipment,  
26 including without limitation trucks and heavy equipment with defects that could have  
27 caused braking or turning mechanisms to fail.

28 21. Plaintiff objected to unsafe electrical wiring and service panels.

1           22. Plaintiff objected to employment of City of Philomath Fire Marshal Ray  
2 Hubbel as Defendant's Safety Manager as a violation of Oregon's government ethics  
3 laws.

4           23. As a result of Plaintiff's objections, Defendant discharged plaintiff on or  
5 about October 20, 2011, in violation of ORS 659A.199.

6       24. As a result of the violations, Plaintiff lost wages and is entitled to  
7 economic damages in the amount of \$15,120 under ORS 659A.885.

8       25. As a further result of the damages, Plaintiff suffered lost reputation,  
9       humiliation, and mental and emotional distress, for which he is entitled to  
10      compensatory damages in the amount of \$25,000 under ORS 659A.885.

11       26. Defendant's actions were malicious and intentional, entitling him to  
12 \$25,000 punitive damages under ORS 659A.885.

13           27. Plaintiff's remedies at law are inadequate, entitling him to judgment  
14 directing his reinstatement.

15           28. Plaintiff incurred attorney fees and costs in prosecuting this lawsuit, and  
16 is entitled to award of reasonable attorney fees and costs to be determined by the  
17 court under ORS 659A.885.

## PRAYER

Wherefore, Plaintiff prays for judgment.

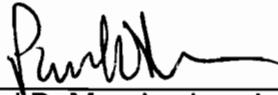
20           1. On the First Claim for judgment for Plaintiff and against Defendant for  
21 \$10,000 economic damages, \$10,000 liquidated damages, plus reasonable attorney  
22 fees and costs to be determined by the Court.

23           2. On the Second Claim for judgment for Plaintiff and against Defendant  
24 for \$10,000 economic damages for lost wages, \$3600 penalty wages, plus 9 percent  
25 pre- and post-judgment interest on unpaid wages and reasonable attorney fees and  
26 costs to be determined by the court.

27           3.     On the Third Claim for judgment for Plaintiff and against Defendant for  
28     \$15,120 economic damages, \$25,000 compensatory damages, \$25,000 punitive

1 damages, reinstatement, plus reasonable attorney fees and costs to be determined  
2 by the court.

3  
4 April 5, 2012

  
5 Paul B. Meadowbrook, OSB No. 79322  
6 Attorney for Plaintiff

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